

REMARKS

Entry of the present response is respectfully requested. It is earnestly believed that the present response places the application in condition for allowance, and, thus, entry of the response is appropriate. By the present response, claims 24-29 are pending.

Rejections under 35 U.S.C. §112

In the Office Action of October 6, 2006, the Examiner rejected claims 26-27 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. More specifically, the Examiner stated that according to Fig. 3B, when the dimples are oriented at an angle, the dimples are not in contact with each other, and thus the claimed subject matter is not supported by the original disclosure. That rejection is respectfully traversed.

While there is no *in haec verba* requirement, newly added claim limitations must be supported in the specification through express, *implicit*, or *inherent* disclosure (MPEP §2163(I)(B))(emphasis added). That is, the applicant is not required to expressly disclose every permutation or inventive possibility in the original disclosure to satisfy the written description requirement. As the specification notes, the present invention is not to be considered limited to the precise construction disclosed. Various adaptations, modifications, and uses of the invention may occur to those skilled in the art to which the inventions relates and the intention is to cover hereby all such adaptations, modifications, and uses which fall within the spirit or scope of the appended claims (Pg. 10, lines 9-15). The utility in locating the dimples 20 on a 0-45 degree axis relative to the vertical axis is that the top, bottom, and side interior surfaces 14, 13, and 36 respectively of the tube 10 may be made free from the obstruction by dimples to allow for drainage of fluid when the tube is bent along the vertical or horizontal axis (Pg. 8, lines 16-21).


It would readily occur to one having ordinary skill in the art that although this angular orientation is only shown in Fig. 3B (i.e. where the dimples are without contact), the orientation is equally advantageous where the dimples are in contact (i.e. Fig. 3A), because in either case, the surfaces 13, 14, 36 are free from obstruction by dimples to allow for drainage. When the indentations 15 do not contact one another (Fig. 3B), the space between the indentations remains a “dead flow area”, allowing control of the flow and pressure drop characteristics of the nozzle by controlling the size of the apertures 31 (Col. 4, lines 43-48). Whether the tube is configured as in (Fig. 3B) or as in (Fig. 3A) is wholly unrelated to the feature described, i.e., an adequate obstruction-free path for fluid drainage. Thus, angularly orienting dimples that are in contact is within the scope and spirit of the invention. That is, such a limitation is implicit in the disclosure since it has already been expressly disclosed where the dimples are not in contact. Therefore, at the time of filing, the applicant was in possession of subject matter directed to contacting dimples located at an angle relative to the vertical axis, as the original specification provides support for that subject matter.

In view of the foregoing, it is submitted that the application is in condition for allowance. It is respectfully requested that the response be entered and the application allowed.

Serial No. 10/721,682

Please charge any deficiency in fees or credit any overpayment to our Deposit Account No. 20-0090.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John R. Hlavka". The signature is fluid and cursive, with the first name "John" and last name "Hlavka" clearly distinguishable.

John R. Hlavka
Reg. No. 47,653

Telephone: (216) 621-2234
Facsimile: (216) 621-4072
CUSTOMER NO.: 26294